

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

STEVEN JOSEPH KAUFMAN,

Petitioner,

Case Number: 05-CV-73933

v.

HONORABLE PATRICK J. DUGGAN

THOMAS BIRKETT,

Respondent.

OPINION AND ORDER

At a session of said Court, held in the U.S.
District Courthouse, Eastern District
of Michigan, on April 6, 2006.

**PRESENT: THE HONORABLE PATRICK J. DUGGAN
U.S. DISTRICT COURT JUDGE**

Petitioner Steven Joseph Kaufman (“Petitioner”) has filed a *pro se* petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254. Now before the Court are Petitioner’s Motion for Discovery Under 28 U.S.C. § 2254, Rule 6 and Motion for Appointment of Counsel.

Rule 6 of the Rules Governing Section 2254 Cases provides that leave of court is required before a habeas corpus petitioner may conduct discovery. Respondent has not yet filed a response to the petition for a writ of habeas corpus and a response is not due to be filed until April 17, 2006. The Court concludes that, because an answer has not yet been filed, it is premature for the Court to determine whether the discovery requested by

Petitioner is necessary for the just adjudication of his habeas corpus petition. Therefore, the Court will deny Petitioner's Motion for Discovery without prejudice.

Petitioner also has filed a Motion for Appointment of Counsel. There exists no constitutional right to the appointment of counsel in civil cases, and the court has broad discretion in determining whether counsel should be appointed. *Childs v. Pellegrin*, 822 F.2d 1382, 1384 (6th Cir. 1987) (stating that "appointment of counsel in a civil case is ... a matter within the discretion of the court. It is a privilege and not a right.") (internal quotation omitted). A habeas petitioner may obtain representation at any stage of the case "[w]henever the United States magistrate or the court determines that the interests of justice so require." 18 U.S.C. § 3006A(a)(2)(B). In the instant case, the Court determines after careful consideration that the interests of justice do not require appointment of counsel at this time.

Accordingly,

IT IS ORDERED, that Petitioner's Motion for Discovery under 28 U.S.C. § 2254, Rule 6 and Motion for Appointment of Counsel are **DENIED WITHOUT PREJUDICE**.

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

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